

## **ARTICLE XXXI. - HISTORIC AND SCENIC PRESERVATION COMMISSION REGULATIONS [88]**



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### **Sec. 80-31.1. - Purpose.**

As a matter of public policy it is necessary to ensure the protection, enhancement and perpetuation of a historic district in the city as well as other identified landmarks as being necessary to promote the economic, cultural, educational and general welfare of the public and its heritage. Inasmuch as the identity of this community and its citizens is founded on its past, and whereas the city proudly acknowledges itself as being the City of American History, and whereas Rome has many significant historic, architectural and cultural resources which constitute a significant portion of its heritage, it is the purpose of this act [article] to:

- (a) Protect and enhance the historic district and landmarks which represent distinctive elements of Rome's historic, architectural, cultural, economic and social heritage.
- (b) Foster civic pride in the city, its heritage and in the accomplishments of the past.
- (c) Promote the historic district and landmarks for the education, pleasure and welfare of the citizens of the city and its visitors.
- (d) Ensure the harmonious, orderly and efficient change, growth and development in the historic district.
- (e) Stabilize and improve property values.
- (f) Protect and enhance Rome's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- (g) It is the further intent of the provisions developed herein to preserve through the review of changes to existing properties and to proposed new facilities to provide and ensure special

treatment to protect the aesthetic and functional relationship of the properties as they exist alone, in their immediate neighborhood, and to the historic district as a whole.

(Ord. No. 6529, 11-27-91; Ord. No. 7802, 4-28-04)

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### **Sec. 80-31.2. - Combining zones.**

The regulations adopted herein shall be combined with any existing zoning code designation applicable to the property in which the historic and scenic preservation district shall govern. The regulations of the historic and scenic preservation district shall be controlling in the renovation and development of properties and their usage as provided for in a particular zoning designation.

(Ord. No. 6529, 11-27-91; Ord. No. 7802, 4-28-04)

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### **Sec. 80-31.3. - Allocation of powers to the planning department and planning board in regard to the historic district.**

#### **(a) The powers of the planning department over the historic district are as follows:**

- a. Employment of staff and professional consultants as necessary to carry out the duties outlined in this article.
- b. Promulgation of rules and regulations as necessary for the conduct of business.
- c. Making recommendations to the common council of the City of Rome concerning the utilization of village, state, federal or private funds to promote the preservation of landmarks and the historic district within the City of Rome.
- d. Approval or disapproval of applications for certificates of approval pursuant to this article.

#### **(b) The powers of the planning board over the historic district are as follows:**

- a. Adoption of criteria for the identification of significant historic, architectural and cultural landmarks, landscaping, and for any modification of the historic district.
- b. Employment of staff and professional consultants as necessary to carry out the duties of the board in regard to the historic district responsibilities.
- c. Designation of identified structures or resources as landmarks.
- d. Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- e. Recommending acquisition of a landmark structure by the City where its preservation is essential to the purposes of this article and where private preservation is not feasible.

- f. Issue opinions to the planning department as required by this article for the issuance of certificates of approval.
- g. Review opinions of the administrative review board, handed down through the appellate procedure contained in this article, and make determinations as to whether a planning department decisions to deny an application for a certificate of approval should be overturned.
- h. Classification and/or reclassification of individual properties within the historic district.

(L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.4. - Classification of properties within the historic district.**

- (a) All properties within the historic district shall be classified in terms of historic significance, condition, and degree of alteration. Each property will be classified as one of five categories:
  - a. Class (A). Highly significant, good condition, minimal alteration.
  - b. Class (B). Significant, minimal alteration.
  - c. Class (C). Significant, alterations exist.
  - d. Class (D). No historic significance, sympathetic to nearby structures.
  - e. Class (E). Modern, no historic significance.
- (b) The planning board shall undertake the classification and/or reclassification of properties within the historic district. The Avante Andiamo 2000 survey conducted in 1981 shall serve as a guideline in the original attempt to classify each property.
- (c) Reclassification may be applied for by the owner of the property in question. Application shall be made to the planning board for a review of the classification of his or her property. Reclassification shall occur if upon review of the planning department records of approved changes to the property since the time of the initial classification the planning board finds that such reclassification holds merit. Reclassification cannot occur as a result of illegal or unauthorized changes to the property. A majority vote will reclassify the property. The planning department, common council and codes enforcement office will be notified of any reclassification that is approved.

(L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.5. - Reserved.**

Editor's note— Section 73.3 (now § 80-31.5), relating to meetings, derived from Ord. No. 6529, adopted November 27, 1991, and was repealed by L.L. No. 7-1994, adopted September 14, 1994.

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#### **Sec. 80-31.6. - Certification of approval for the alteration, demolition or new construction affecting historic districts or landmarks.**

- (a) No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within the historic district, nor shall any person make any material change to the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior appearance and cohesiveness of the historic district, without first obtaining a certificate of approval from the planning department.
- (b) No building permit shall be issued until the codes enforcement officer has received written notice of the granting of a certificate of approval, with accompanying certified copy of approved plans. In addition thereto, whether applicable, no certificate of occupancy permit shall be issued until the codes enforcement officer has been advised and has certified, in writing, that the construction, alteration or change has been carried out pursuant to and in accordance with the approved plans.
- (c) The certificate of approval required by this article shall be in addition to and not in lieu of any building permit that may be required by any other ordinance or provision of the city.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.7. - Application procedures.**

Prior to the commencement of any work requiring a certificate of approval, the owner shall file an application for such a certificate with the planning department. The application shall include:

- (a) Name, address and telephone number(s) of applicant.
- (b) Location and photographs of building and/or lot.
- (c) Precise written statement describing proposed changes or design (on the department's application form).
- (d) Final work drawings, with:
  - a. Elevation of facades.
  - b. Site plan.
  - c. Indication of materials.
- (e) Written specifications, with measurements.
- (f) Rehabilitation or restoration applications should include statement of physical or documentary evidence for proposed changes and a description of existing materials and their condition, particularly if replacement is proposed.
- (g) Elevation drawings of proposed changes, when applicable.
- (h) Perspective drawings, including relationship to adjacent properties, when applicable.
- (i) Samples of color or materials to be used, when applicable.

- (j) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
- (k) Any other information which the planning department may deem necessary in order to visualize and understand the proposed work.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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### **Sec. 80-31.8. - Criteria for approval of a certificate of approval.**

- (a) In passing upon an application for a certificate of approval, the planning department shall not consider changes to interior spaces.
- (b) The department's decision shall be based upon the following principles:
  - a. Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible
  - b. Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district
  - c. New construction shall be compatible with the district in which it is located. Contemporary designs shall not be discouraged, so long as they are in line with the criteria below for compatibility.
- (c) In reviewing an applicant's proposal, the planning department shall give consideration to, but not necessarily be limited by, the following factors:
  - a. The historical and/or architectural value and significance of the structure and its relationship both to the surrounding neighborhood as well as to the historic district as a whole.
  - b. The general design, character and appropriateness to the property of the proposed alteration or new construction.
  - c. The integrity of the original design.
  - d. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
  - e. Texture, materials and color, and their relation to similar features of other properties in the neighborhood.
  - f. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and rhythm of spacing of properties on the streets, including setback.
  - g. The importance of historic, architectural or other features to the significance of the property.
  - h. The criteria established in the secretary of the interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," as developed and published by the United States Department of the Interior.
  - i. Any other factors, including aesthetics, which the department deems pertinent for the purpose of its review and consideration.

In considering an application, the department shall determine whether the proposed plan conforms to the criteria set forth in this article and may approve or disapprove the proposed design or require changes as in its judgment are necessary to carry out the general purposes of the zoning regulations.

**Sec. 80-31.9. - Decisions of the planning department.**

- (a) The planning department shall either approve, deny or approve with modifications an applicant's proposal within 30 days from receipt of an application determined to be acceptable by the department where no planning board opinion is involved in the review. Where planning board opinion is either sought or required, the time limit shall be 60 days from receipt of the application. This timeframe may be extended by the mutual consent of the applicant and the department.
- (b) The department may, at any time, ask the planning board for its opinion on any application at which time an opportunity will be provided for all interested parties to present their views.
- (c) **A request for a planning board opinion will be required in those instances where:**
  - a. **The property in question has been classified as a class (A) property, or**
  - b. **The property in question has been classified as a class (B) property, or**
  - c. **The property in question has been classified as a class (C) property, and the proposed changes involve:**
    - i. **A change in square footage of either floor or roof area, or**
    - ii. **A material change in siding, or**
    - iii. **A material change in doors or windows.**

No determination by the planning department will be valid without a Planning Board opinion, where such opinion is required.

- (d) All decisions of the planning department shall be put into writing. A copy shall be mailed to the applicant, with copies mailed to the codes enforcement officer, as well as to the city clerk to be placed on file for public inspection. The decision of the planning department shall state the reasons for approving, denying or modifying an application.

**Sec. 80-31.10. - Hardship criteria.**

- (a) An applicant whose certificate of approval for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish the validity of either of the following subsections:
  - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; or
  - b. The owner of the property establishes through competent evidence that the status of the structure within the historic district prevents the use of the structure as a residence.

- (b) An applicant whose certificate of approval for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
- a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
  - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
  - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.11. - Hardship application procedure.**

- (a) After receiving written notification for the planning department of the denial of a certificate of approval, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the planning board makes a finding that a hardship exists.
- (b) The planning board may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views. The applicant shall consult in good faith with the planning board, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.12. - Appellate review.**

- (a) Step I, mediation.
  - a. Should an applicant determine or believe that the decision rendered by the planning department is unreasonable and not made pursuant to the provisions set forth in this article, the applicant may file an appeal from that decision within 15 days of receipt of a final determination of the planning department to the chairperson of the planning board and to the chairperson of the common council committee on historic preservation.
  - b. The administrative review board shall meet within 15 days after receipt of the appeal with the applicant to review the determination rendered by the planning department and its basis therefore the board shall review with the applicant the basis for their grievance and any options that might be available to them to achieve their proposal for renovations. The board shall, as well, solicit input from representatives of the planning department to ascertain the rationale for their denial and to determine whether they, as well, had offered and/or considered alternatives to the applicant to achieve their desired goal(s) for their home, building and/or property. The board shall act to encourage communication between the various parties with an intent to promote a program for renovation or construction acceptable to both parties.

- c. The review board shall consist of two members of the common council of the city, to be appointed by the president of the common council, two members of the planning board and a representative of the city planning department.
  - d. Should the review board not achieve a proposal acceptable to both the applicant and the planning department it shall issue a written report to the full planning board of its findings and recommendations, to be reviewed by said body at its next regularly scheduled meeting. The planning board may choose at that time to either accept these findings and their recommendations and, should the applicant desire, choose to overturn the planning department decision, or in the alternate allow the original determination to stand.
  - e. A copy of the review board's report shall also be filed with the common council.
- (b) Step II, appellate review.
- a. Should the applicant determine that the decision of the planning board according to the step I mediation procedure is unacceptable [unacceptable], they may by written application appeal the original decision of the planning department to the common council of the city.
  - b. The review of the common council shall be that of an appellate body, and shall be limited to a determination as to whether the actions taken by the planning department, under the circumstances surrounding the application and as governed by the rules and regulations governing said body, in conformance with the criteria of this law.
  - c. Five votes in favor of the appeal of the applicant shall be required to override the decision of the planning department.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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### **Sec. 80-31.13. - Maintenance and repair required.**

- (a) Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material or outward appearance.
- (b) No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of an exterior architectural feature which would, in the judgment of the commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
- (c) Examples of such deterioration include:
  - a. Deterioration of exterior walls, trim and/or other vertical supports.
  - b. Deterioration of roofs or other horizontal members.
  - c. Deterioration of exterior chimneys.
  - d. Deterioration or crumbling of exterior stucco or mortar.
  - e. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.



- f. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.14. - Enforcement.**

All work performed pursuant to a certificate of approval issued under this article shall conform to any requirements included therein. It shall be the duty of the codes enforcement officer(s) to inspect periodically any such work to ensure compliance. In the event work is found that is not being performed in accordance with a certificate of approval, or upon notification of such fact by the planning department, the codes enforcement officer(s) shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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#### **Sec. 80-31.15. - Signs.**

- (a) Any existing sign located in the historic district must be approved by the planning department. It shall be the responsibility of the planning department to inform the owner of the sign as to its conformance or nonconformance to the requirements of this article. Any existing sign which is approved shall be issued a certificate of approval. The owner of any existing sign which cannot be given approval shall so be notified by certified registered mail. The notice of nonconformance shall suggest the reasons why said sign cannot be issued a certificate of approval. The owner of any such sign shall, within two years from receipt of the notice of nonconformance, apply for and receive a certificate of approval or remove the sign in question. For any sign in which the investment cannot substantially be amortized over a two-year period, the period of time may be extended by the Planning Board after public notice and hearing. In no case shall be [the] extension be for more than eight years, from notice of nonconformance.
- (b) Any new sign to be erected in the historic district must secure the planning department's approval.
- (c) In any historic district, in addition to the provisions set forth in article XIV of the Rome Code of Ordinances [this appendix], entitled, "Regulation of Signs," the following regulations shall apply:
  - a. Signs, other than official signs, shall not be erected within the right-of-way of any street or alley.
  - b. No flashing, oscillating or revolving signs shall be permitted. A sign illuminated by artificial light that is not constant in intensity or color shall be considered to be a flashing sign.
  - c. No sign shall project from the main facade of a building. Signs affixed to the building shall be parallel with and applied to the facade of the building and shall not extend above the facade.
  - d. Freestanding signs may be permitted by the planning department when the sign is shown to be consistent with the character of the structure and the surrounding neighborhood.

- e. No advertising signs or billboards shall be permitted.
  - f. Signs within the district are to be sympathetic to the buildings' architecture and design.
  - g. Illumination, if requested, shall be of an external nature only. All electrical equipment for illumination shall be properly concealed.
  - h. All signs must be kept clean, neatly printed and free from all hazards, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.
- (d) If at any time the provisions of this section and those of section 80-26 entitled "Regulation of signs," should be found to be in conflict as they apply to the historic district of the city, the provisions of this section shall govern and supersede.

(Ord. No. 6529, 11-27-91; L.L. No. 7-1994; Ord. No. 7802, 4-28-04)

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